

§ 19.38

19 CFR Ch. I (4–1–01 Edition)

permitted by the port director (see § 19.36(g)).

[T.D. 92–81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97–19, 62 FR 15840, Apr. 3, 1997]

§ 19.38 Supervision of exportation.

(a) *Sales ticket withdrawals.* Conditionally duty-free merchandise withdrawn under the sales ticket procedure for exportation shall be exported only under Customs supervision as provided in this section and § 19.39 of this part. General Customs supervision shall be exercised as provided in § 19.4 of this part and § 101.2(c) of this chapter, and may consist of spot checks of exportation transactions, examination of articles being exported, and audits of the proprietor's records.

(b) *Supervision of ATF bonded exports.* Customs officers may conduct general supervision of exportations of cigarettes and cigars from ATF export bonded warehouses (see 27 CFR part 290) in conjunction with exportation from duty-free stores.

[T.D. 92–81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 98–22, 63 FR 11825, Mar. 11, 1998]

§ 19.39 Delivery for exportation.

(a) *Delivery to land border locations—*
(1) *Land border locations.* Land border location means an exit point (see § 19.35(d)) from which individuals depart to a contiguous country by vehicle or on foot by bridge, tunnel, highway, walkway, or by ferry across a boundary lake or river, but not including departure to a contiguous country by air or sea. Deliveries from a duty-free store for exportation from such locations shall be made to the purchaser only beyond the exit point, except as specified in paragraph (a)(2) of this section.

(2) *Delivery at or before exit point.* Delivery of such merchandise may be made at or before the exit point of any location approved by Customs as of August 23, 1988. In such cases, delivery shall be done under the physical supervision of a Customs officer, or in accordance with established guidelines as required by § 19.36(b) of this part. The officer shall sign the sales ticket certifying exportation and return it to the proprietor for retention in the files. The port director may also require that

the warehouse proprietor have the person receiving the article sign the same copy to certify receipt.

(b) *Delivery to seaport locations—*(1) *Seaport location.* Seaport location means an exit point (see § 19.35(d)) from which conditionally duty-free merchandise is delivered to departing individuals for exportation by vessel of more than 5 net tons which is departing directly from the Customs territory to touch and trade in a foreign country. Deliveries for exportation from such locations may be made only beyond the exit point, except as specified in paragraph (b)(2) of this section.

(2) *Delivery at or before exit point.* Delivery of such merchandise may be made at or before the exit point in the case of any locations approved by Customs as of August 23, 1988. In such cases, delivery shall be done under the physical supervision of a Customs officer, or in accordance with established guidelines as required by § 19.36(b) of this part. The officer shall sign the sales ticket certifying exportation and return it to the proprietor for retention in the files. The port director may also require that the warehouse proprietor have the person receiving the article sign the same copy to certify receipt.

(c) *Delivery to airport locations.* Airport location means an exit point from which conditionally duty-free merchandise is delivered to departing individuals for exportation on a scheduled, chartered, or “for-hire” airline. Delivery of conditionally duty-free merchandise to be exported from such locations may be made by one of the following five procedures:

(1) *Delivery in sterile area.* A sterile area is an area that is within the airport and to which access is restricted to those passengers departing from Customs territory. In such cases, delivery will be made directly to the purchaser (or a family member or companion travelling with the purchaser) for carrying aboard the aircraft. This method of delivery is not authorized if there is any mixture in the sterile area of individuals arriving from a foreign country, or individuals arriving or departing on a domestic flight, with individuals departing for foreign;

(2) *Passenger delivery.* Merchandise may be delivered by the cartman or duty-free store operator to the purchaser (or a family member or companion travelling with the purchaser) at or beyond the exit point for the flight. The port director may require the exit point to be delimited by marking of its boundaries, or require proper supervision in accordance with established guidelines as required by § 19.36(b) of this part, if needed for reasonable assurance that conditionally duty-free merchandise will be exported with the purchaser or a family member or companion.

(3) *Aircraft delivery.* The merchandise will be delivered by a licensed cartman for lading as baggage directly on the aircraft on which the passenger will depart. The airline will release the merchandise to the purchaser when the aircraft has departed for its foreign destination;

(4) *Unit-load delivery.* Merchandise may be sold to passengers departing from the United States at a prior port of boarding on flights proceeding to a foreign destination which are required to clear with intermediate stops in the United States, provided that all of the following conditions are met:

(i) Sales may be made only to passengers holding a through ticket on the same flight, with no stopover privileges in the United States, to a foreign destination;

(ii) Merchandise shall be placed on the aircraft on which the passenger departs the United States for carriage as passenger baggage;

(iii) Merchandise shall be placed in a container sealed with Customs seals. The sealed container(s) may be placed in the baggage compartment or on the passenger deck of the aircraft. Containers stowed in baggage compartments may, with Customs permission, be transferred to the passenger deck at an intermediate or final stop in the United States. The seal numbers shall be placed on the face of the aircraft general declaration;

(iv) A lading manifest list, in duplicate, of conditionally duty-free merchandise sold to passengers aboard the particular flight will be prepared by the proprietor. An authorized airline representative will sign for receipt,

with one copy to be retained by the airline for presentation to Customs as requested at the intermediate or final port, and the duplicate copy to be returned to and retained by the proprietor for record purposes;

(v) The seals shall not be broken nor shall any of the purchases be delivered until the aircraft is secured for departure to its foreign destination at the last port. In the event that the seals are broken before that time, or the merchandise is not exported for any reason and not returned to Customs custody, demand shall be made against the importation and entry bond of the importer of record;

(5) *Cancelled or aborted flights or no-show passengers*—(i) *Cancelled or aborted flights.* The proprietor shall, upon request, make available to Customs the purchaser's name, the purchaser's airline ticket number and the identity and quantity of the merchandise delivered by the proprietor to the purchaser (if the merchandise was delivered to the airline rather than the passenger, the name of the airline employee to whom the merchandise was delivered), and the date and time of that delivery in lieu of retrieving the merchandise for safekeeping until the purchaser actually departs.

(ii) *No-show passengers.* A proprietor who delivers merchandise directly to an airline for delivery to a passenger who does not board the flight shall establish a procedure to obtain redelivery of that merchandise from the airline.

(d) *Lading manifest lists; certificate of exportation.* The proprietor shall retain copies of lading manifest lists and certificates of lading for exportation in its files for not less than 5 years after exportation by warehouse entry number or by unique identifier where permitted by the port director (see § 19.36(g)).

(e) *Delivery method.* Delivery of conditionally duty-free merchandise to persons for exportation will be made by licensed cartmen or bonded carriers under the procedures in subpart D, part 125, and § 144.34(a), of this chapter, or under a local control system approved by the port director wherein any discrepancy found in the merchandise will be treated as if it occurred in the bonded warehouse.

§ 19.40

(f) *Return of merchandise to stock.* Whenever merchandise is withdrawn under the sales ticket procedure of §144.37(h) of this chapter, but is undeliverable or is rejected by the purchaser, the merchandise may be returned to the duty-free store and the records, including the sales ticket and sales ticket register, amended to reflect the quantity returned to stock.

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15840, Apr. 3, 1997]

CONTAINER STATIONS

SOURCE: Sections 19.40 through 19.49 issued by T.D. 72-68, 37 FR 4186, Feb. 29, 1972, unless otherwise noted.

§ 19.40 Establishment, relocation or alteration of container stations.

(a) A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a port director upon the filing of an application therefore and its approval by the port director and the posting of a bond on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter in such amount as the port director shall require.

(b) Alterations to or relocation of a container station may be made with the permission of the director of the port in which the facility is located, or if not within a port's limits, nearest to where the facility is located. An application to alter or relocate a container station shall be accompanied by the fee required by paragraph (c) of this section.

(c)(1) Customs shall charge a fee to establish, relocate or alter a container station, and publish a general notice in the FEDERAL REGISTER and Customs Bulletin setting forth a fee schedule, to be revised periodically to reflect increased costs, to establish, relocate or alter the container station. The published revised fee schedule shall remain in effect until changed.

(2) The fee, rounded off to the nearest dollar, shall be calculated in accordance with §24.17(d) of this chapter. The fee shall be based upon the amount of

19 CFR Ch. I (4-1-01 Edition)

time the average service requires of the Customs officers performing the service.

[T.D. 72-68, 37 FR 4186, Feb. 29, 1972, as amended by T.D. 82-135, 47 FR 32416, July 27, 1982; T.D. 83-56, 48 FR 9854, Mar. 9, 1983; T.D. 84-213, 49 FR 41170, Oct. 19, 1984; T.D. 85-72, 50 FR 15885, Apr. 23, 1985; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unloading to a designated container station, or may be received directly at the container station from a bonded carrier after transportation in-bond, before the filing of an entry of merchandise therefor or the permitting thereof (see subpart A of part 158 of this chapter) for the purpose of breaking bulk and redelivery of the cargo. In either circumstance, excess loose cargo, as part of containerized cargo, may accompany the container to the container station.

[T.D. 82-135, 47 FR 32416, July 27, 1982]

§ 19.42 Application for transfer of merchandise.

The container station operator may file an application for the transfer of a container intact to the station. The application shall be in duplicate in the following or substantially similar format:

U.S. CUSTOMS SERVICE

APPLICATION AND PERMIT TO TRANSFER CONTAINERIZED CARGO TO A CONTAINER STATION

Date _____

Application is made to transfer the containers and their contents listed below which arrived on _____ (Carrier) on _____ (Date) at Pier _____ to the _____ (Container station)

An abstract of the carrier's manifest covering the containers by B/L No., marks, numbers, contents, consignee, etc., is attached hereto.

LIST OF CONTAINERS BY MARKS AND NUMBERS ONLY

(Signature of authorized agent of container station)